

MDR Tracking Number: M5-04-2149-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 3-15-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening program (initial and additional hours) and functional capacity evaluations from 6/30/03 through 8/22/03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursements for dates of service 6/30/03 through 8/22/03 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 23rd day of June 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

June 2, 2004

Re: IRO Case # M5-04-2149-01

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ____ for an independent review. ____ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ____ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic who is licensed by the State of Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ____ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ____ reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service 6/30/03 – 8/22/03
2. Explanation of benefits
3. Peer review 7/24/03
4. Letter from rehabilitation center 8/12/03
5. IME report 5/15/03
6. Letter from employer 3/28/03
7. TWCC work status reports
8. TWCC-69 reports
9. FAE report 8/22/03
10. PPE report 6/23/03
11. Medical necessity summary 3/19/04
12. Psychological evaluation 7/2/03
13. Work hardening notes weeks 1 – 8
14. Electrodiagnostic study report 4/23/03
15. MRI report lumbar spine 3/26/03

History

The patient injured his low back in ____ when he lifted an object weighing 25 – 30 pounds and placed it on a high shelf. He sought the care of the treating chiropractor. He was evaluated by MRI, and was treated with one epidural steroid injection, medication, chiropractic treatment and a work hardening program.

Requested Service(s)

Work hardening program, functional capacity exams 6/30/03 – 8/22/03

Decision

I agree with the carrier's decision to deny the requested services.

Rationale

The patient apparently received a fair trial of chiropractic treatment prior to the services in dispute. The notes of that prior treatment were not provided for this review. An EMG/NCS on 4/22/03 revealed a right-sided radiculopathy. An MRI on 3/26/03 revealed generalized annular bulging with protrusion, mild facet arthropathy and disk dehydration at the L4-5 level. At the L5-S1 level there was a generalized annular bulge and minimal facet arthropathy. It is doubtful that any type of conservative treatment, including chiropractic care and a work hardening program would resolve this patient's symptoms more than temporarily. In fact, according to the 8/22/03 FCE report, the patient was still having difficulty with range of motion. He also had increased pain during the testing process with walking reaching, stooping, crouching, kneeling, crawling and balancing. He also experienced increased pain and burning in the light to medium lifting category. He was noted to have weakness due to deconditioning in the area of injury.

It was also noted in the 8/22/03 FCE report that if the patient did return to work, he would be in danger of re-injuring himself, and would not be able to perform his job with safety and efficiency. The documentation shows that the work hardening program was not beneficial to the patient. On 9/19/03, it was noted that the patient had exacerbated his low back pain, and that it was radiating into his left leg.

The documentation provided showed that in the eighth week of the work hardening program the patient had a VAS of 5, and a productivity rating of 5. In week one of the program his VAS was 4, and his productivity was rated at 4. Thus his pain level had increased during the 8-week program. In week eight, the patient still experienced increased pain with job performance tasks. He was noted to be depressed despite continued relaxation/biofeedback back therapy and psychological treatment. The work hardening program was not beneficial to the patient. It was inappropriate for a patient in this patient's condition. It was not medically necessary, and therefore the associated FCEs were not necessary.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.